STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State:_____KANSAS_____

TRANSFER OF ASSETS

1917(c)   The agency provides for the denial of certain Medicaid services by reason
           of disposal of assets for less than fair market value.

1.   Institutionalized individuals may be denied certain Medicaid
      services upon disposing of assets for less than fair market value
      on or after the look-back date.

      The agency withholds payment to institutionalized individuals for
      the following services:

           Payments based on a level of care in a nursing facility;

           Payments based on a nursing facility level of care in a
           medical institution;

           Home and community-based services under a 1915 waiver.

2.   Non-institutionalized individuals:

      ____   The agency applies these provisions to the following non-
             institutionalized eligibility groups. These groups can be
             no more restrictive than those set forth in section 1905(a)
             of the Social Security Act:

                            N/A

      The agency withholds payment to non-institutionalized individuals
      for the following services:

           Home health services (section 1905(a)(7));

           Home and community care for functionally disabled and
           elderly adults (section 1905(a)(22));

           Personal care services furnished to individuals who are not
           inpatients in certain medical institutions, as recognized
           under agency law and specified in section 1905(a)(24).

      ____   The following other long-term care services for which
             medical assistance is otherwise under the agency plan:

                            N/A

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3. <u>Penalty Date</u>--The beginning date of each penalty period imposed for an uncompensated transfer of assets is:

    __X__   the first day of the month in which the asset was transferred;

    ____   the first day of the month following the month of transfer.

4. <u>Penalty Period - Institutionalized Individuals</u>--
In determining the penalty for an institutionalized individual, the agency uses:

    __Y__   the average monthly cost to a private patient of nursing facility services in the agency;

    ____   the average monthly cost to a private patient of nursing facility services in the community in which the individual is institutionalized.

5. <u>Penalty Period - Non-institutionalized Individuals</u>--
The agency imposes a penalty period determined by using the same method as is used for an institutionalized individual, including the use of the average monthly cost of nursing facility services;

    ____   imposes a shorter penalty period than would be imposed for institutionalized individuals, as outlined below:

N/A

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6. Penalty period for amounts of transfer less than cost of nursing
    facility care--

    a.   Where the amount of the transfer is less than the monthly
         cost of nursing facility care, the agency:

         _X_ does not impose a penalty;

         ___ imposes a penalty for less than a full month, based on
             the proportion of the agency's private nursing facility
             rate that was transferred.

    b.   Where an individual makes a series of transfers, each less
         than the private nursing facility rate for a month, the
         agency:

         _X_ does not impose a penalty;

         ___ imposes a series of penalties, each for less than a full
             month.

7. Transfers made so that penalty periods would overlap--
    The agency:

    _X_   totals the value of all assets transferred to produce a
            single penalty period;

    ___   calculates the individual penalty periods and imposes them
            sequentially.

8. Transfers made so that penalty periods would not overlap--
    The agency:

    _X_   assigns each transfer its own penalty period;

    ___   uses the method outlined below:

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9. <u>Penalty periods - transfer by a spouse that results in a penalty period for the individual</u>--

   (a)   The agency apportions any existing penalty period between the spouses using the method outlined below, provided the spouse is eligible for Medicaid. A penalty can be assessed against the spouse, and some portion of the penalty against the individual remains.

   If both spouses are institutionalized at the time the penalty is established, the period of ineligibility which applies is to be split equally (or in the case where the period does not divide evenly, split so that one spouse serves one or more than the other) and each spouse would be ineligible over the same period of time. If the spouse of the individual is institutionalized at a later date, the penalty period which remains as of that time shall be split as indicated previously between both spouses.

   (b)   If one spouse is no longer subject to a penalty, the remaining penalty period must be served by the remaining spouse.

10. <u>Treatment of income as an asset</u>--
    When income has been transferred as a lump sum, the agency will calculate the penalty period on the lump sum value.

    ____   The agency will impose partial month penalty periods.

    When a stream of income or the right to a stream of income has been transferred, the agency will impose a penalty period for each income payment.

    ____   For transfers of individual income payments, the agency will impose partial month penalty periods.

    ____   For transfers of the right to an income stream, the agency will use the actuarial value of all payments transferred.

    _X_   The agency uses an alternate method to calculate penalty periods, as described below:

    The amount of income transferred each month shall continue to be considered as available income in the post-eligibility process.

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11. <u>Imposition of a penalty would work an undue hardship--</u>
     The agency does not apply the transfer of assets provisions in any
     case in which the agency determines that such an application would
     work an undue hardship.   The agency will use the following
     procedures in making undue hardship determinations:

     The individual is informed of the hardship criteria noted
     below and must formally request a hardship determination.
     Individual is responsible for documenting how the criteria
     is met.

     The following criteria will be used to determine whether the agency
     will not count assets transferred because the penalty would work
     an undue hardship:

     The individual must verify that he or she has exhausted all
     available legal remedies for reclaiming the assets or receiving
     full compensation and has used all nonexempt resources to meet
     living and/or medical expenses, including those amounts
     protected under the allowable resource levels.